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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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TRASK BRITT P.O. BOX 2550 SALT LAKE CITY, UT 84110			EXAMINER ANDERSON, JOHN A	
			ART UNIT 3609	PAPER NUMBER
			MAIL DATE 08/22/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/690,474

Applicant(s)

VLAZNY ET AL.

Examiner

John A. Anderson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. **Claims 1-16** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Hart et al (US PG Pub No.: 2007/0087825 A1)** in view of **Downes (US PG Pub No.: 2003/0199315 A1)**.

As regards claim 1:

Forming a pari-mutuel wagering pool:

- **Hart discloses** the present invention provides systems and methods for providing a user with the ability to submit a wager to a fixed-odds book or a pari-mutuel pool using an interactive wagering application [Abstract].
- **Comprising a plurality of potential outcomes for an event:** the player selects one horse and such horse has to cross the finish line either first, second, or third for the player to win [0007];
- **And the specified odds level accepted for each wager;**

The odds of winning the second pool are less than the first pool [0019].

Identifying at least one outcome as a winning outcome, identifying all game winners:

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- **Hart discloses** if a player is successful in its selections such that the order of indicia based on the order of finish of the competitors in the virtual race is the same as the positions of finish selected by the player, such player will win, [0049].

Distributing from the pari-mutuel pool an appropriate payout for each winner:

- **Hart discloses** a share of the first pool proportionate to the wagers made on the first wager type is distributed to each of the players in the first and second group if the selected position of finish by the players in the first or second group is the same as the order of indicia, [0019].

Hart does not disclose specifically recording participant's wager.

Downes discloses the ability to generate sufficient records of individual wagers to properly handle the various means of placing wagers as well as properly handle the various means of paying winning wagers and refunds. [0076]

It would have been obvious to a person of ordinary skill in the art at the time of the invention was made to utilize the teachings of Downes in the device of Hart .The motivation would be to have the ability to separate a portion of the amounts wagered in the various betting pools and calculate approximate odd and payouts.

As regards claim 2, Hart discloses to increase the chances of successfully wagering on racing games, players must develop expertise, [0003].

Hart does not disclose returning to each winning participant, the wager amount.

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Downes discloses the payoff amount per dollar wagered for each gross dollar wagered on the winner is determined by dividing the win betting pool by the sum wagered on the, [0083].

It would have been obvious to a person of ordinary skill in the art at the time of the invention was made to utilize the teachings of Downes in the device of Hart .The motivation would be to encourage participants with minimum of game wager as a return on their investment.

As regards claim 3, Hart discloses pari-mutuel wagering allows a player holding a winning ticket to divide the total amount in a pool (comprising of all wagers made for a particular game) in proportion to the player's wager,[0016].

Hart does not disclose whether the funds in the pari- mutual wagering pool are sufficient to pay odds on each winning wager.

Downes discloses The basic principle of pari-mutuel wagering is that the winners share the total stakes wagered on an event minus a fixed commission for the house, [0014].

It would have been obvious to a person of ordinary skill in the art at the time of the invention was made to utilize the teachings of Downes in the device of Hart .

The motivation would be to have a more efficient betting system than fixed odds wagering, [0013]. It has been obvious to combine Downes with Hart.

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As regards claim 4, Hart discloses pari-mutuel wagering allows a player holding a winning ticket to divide the total amount in a pool (comprising of all wagers made for a particular game) in proportion to the player's wager, [0016].

Hart and Aronson do not disclose whether the funds in the pari- mutual wagering pool are sufficient to pay odds on each winning wager.

Downes discloses the payoff amount per dollar wagered for each gross dollar wagered on the winner is determined by dividing the win betting pool by the sum wagered on the winner [0083].

It would have been obvious to a person of ordinary skill in the art at the time of the invention was made to utilize the teachings of Downes in the device of Hart .

The motivation would be to have payouts odds determined by the amounts in the betting pools after taking the house poll deduction into account [0080]. It has been obvious to combine Downes with Hart.

As regards claim 5, Hart discloses [0050] the pool comprises a predetermined portion of the wagers made by the players. In a preferred embodiment, each wager type is associated with its own pool.

Hart does not disclose if it is determined that the funds in the pari-mutuel wagering pool are not sufficient.

Downes discloses a system for pari-mutuel sports wagering is provided. The system includes at least one processing element which is adapted to receive wagers and to calculate odds relating to the wagers based on a pari-mutuel wagering strategy, to

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determine whether the received wagers are winning wagers, and to determine a payout amount for the winning wagers based on the pari-mutuel wagering strategy; [0021].

It would have been obvious to a person of ordinary skill in the art at the time of the invention was made to utilize the teachings of Downes in the device Hart .

The motivation with pari-mutuel wagering, the house is much more able to offer a wide variety of betting options as well as betting options with high odds payouts than is the case with fixed odds wagering, [0015]. It has been obvious to combine Downes with Hart.

As regards claim 6, Hart discloses a second pool associated with a second wager type comprising a portion of said wagers made on said second wager type wherein each of said players in said first group contribute a greater predetermined portion of said wagers to said second pool than each of said players in said second group and wherein the odds of winning said second pool are less than said first pool; [0054]

Hart does not disclose max odds payouts at a particular odds level.

Downes discloses payout odds are determined by the amounts in the betting pools after taking the house pool deduction into account. As previously described, the host 10 may periodically update or recalculate payouts as wagering progresses, [0080].

It would have been obvious to a person of ordinary skill in the art at the time of the invention was made to utilize the teachings of Downes in the device Hart.

The motivation would be to update the final payout funds from the earlier estimated payout funds. It has been obvious to combine Downes with Hart.

As regards claim 7, Hart discloses [0016] On the other hand, pari-mutuel wagering allows a player holding a winning ticket to divide the total amount in a pool (comprising of all wagers made for a particular game) in proportion to the player's wager.

Hart does not disclose paying odds on each wager placed by a winning game participant at or below the max odds payout.

Downes discloses payout odds are determined by the amounts in the betting pools after taking the house pool deduction into account. As previously described, the host 10 may periodically update or recalculate payouts as wagering progresses [0080].

It would have been obvious to a person of ordinary skill in the art at the time of the invention was made to utilize the teachings of Downes in the device Hart.

The motivation would be to update the final payout funds from the earlier estimated payout funds. It has been obvious to combine Downes with Hart.

As regards claim 8, Hart discloses [0016] On the other hand, pari-mutuel wagering allows a player holding a winning ticket to divide the total amount in a pool (comprising of all wagers made for a particular game) in proportion to the player's wager.

Hart does not disclose whether there is surplus of funds in the pari- mutual wagering pool subsequent to paying odds on each winning wager.

Downes discloses payout odds are determined by the amounts in the betting pools after taking the house pool deduction into account. As previously described, the host 10 may periodically update or recalculate payouts as wagering progresses, [0080].

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It would have been obvious to a person of ordinary skill in the art at the time of the invention was made to utilize the teachings of Downes in the device Hart .

The motivation would be to have any accrued surplus be distributed with payouts determined by the amounts in the betting pools after taking the house pool deduction into account [0080]. It has been obvious to combine Downes with Hart.

As regards claim 9, Hart discloses a share of the first pool proportionate to the wagers made on the first wager type is distributed to each of the players in the first and second group if the selected position of finish by the players in the first or second group is the same as the order of indicia, [0019].

Hart does not disclose a means of making surplus payouts.

Downes discloses payout odds are determined by the amounts in the betting pools after taking the house pool deduction into account. As previously described, the host 10 may periodically update or recalculate payouts as wagering progresses,[0080].

It would have been obvious to a person of ordinary skill in the art at the time of the invention was made to utilize the teachings of Downes in the device of Hart.

The motivation would be to make payout proportional to the amount wager by each. It has been obvious to combine Downes with Hart.

As regards claim 10, Hart discloses [0016] On the other hand, pari-mutuel wagering allows a player holding a winning ticket to divide the total amount in a pool (comprising of all wagers made for a particular game) in proportion to the player's wager.

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Hart does not disclose paying odds on each wager placed by a winning game participant at or below the max odds payout.

Downes discloses payout odds are determined by the amounts in the betting pools after taking the house pool deduction into account. As previously described, the host 10 may periodically update or recalculate payouts as wagering progresses, [0080].

It would have been obvious to a person of ordinary skill in the art at the time of the invention was made to utilize the teachings of Downes in the device of Hart.

The motivation would be to update the final payout funds from the earlier estimated payout funds. It has been obvious to combine Downes with Hart.

As regards claim 11, since claim 11 is similar to claim 9, the rejection of claim 9 also applies to claim 11.

As regards claim 12, **Hart discloses** pari-mutuel wagering allows a player holding a winning ticket to divide the total amount in pool in proportion to the player's wager, [0016].

Hart does not disclose whether there is surplus of funds in the pari-mutual wagering pool subsequent to paying odds on each winning wager.

Downes discloses payout odds are determined by the amounts in the betting pools after taking the house pool deduction into account. As previously described, the host 10 may periodically update or recalculate payouts as wagering progresses, [0080].

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It would have been obvious to a person of ordinary skill in the art at the time of the invention was made to utilize the teachings of Downes in the device of.

The motivation would be to have any accrued surplus be distributed with payouts determined by the amounts in the betting pools after taking the house poll deduction into account [0080]. It has been obvious to combine Downes with Hart .

As regards claim 13, Hart discloses pari-mutuel wagering allows a player holding a winning ticket to divide the total amount in pool in proportion to the player's wager, [0016].

Hart does not disclose sharing the surplus of the funds to all winning game participant at the max odds payout.

Downes discloses payout odds are determined by the amounts in the betting pools after taking the house pool deduction into account. As previously described, the host 10 may periodically update or recalculate payouts as wagering progresses, [0080].

It would have been obvious to a person of ordinary skill in the art at the time of the invention was made to utilize the teachings of Downes in the device Hart.

The motivation would be to update the final payout funds from the earlier estimated payout funds. It has been obvious to combine Downes with Hart.

As regards claim 14, Hart discloses pari-mutuel wagering allows a player holding a winning ticket to divide the total amount in pool in proportion to the player's wager, [0016].

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Hart does not disclose paying odds on each wager placed by a winning game participant at or below the max odds payout.

Downes discloses payout odds are determined by the amounts in the betting pools after taking the house pool deduction into account. As previously described, the host 10 may periodically update or recalculate payouts as wagering progresses, [0080].

It would have been obvious to a person of ordinary skill in the art at the time of the invention was made to utilize the teachings of Downes in the device of Hart.

The motivation would be to update the final payout funds from the earlier estimated payout funds to reflect the appropriate payout amounts. It has been obvious to combine Downes with Hart.

As regards claim 15, Hart discloses pari-mutuel wagering allows a player holding a winning ticket to divide the total amount in pool in proportion to the player's wager, [0016].

Hart does not disclose subtracting a take out share.

Downes discloses that deductions are made from betting pools before payout odds are determined, [0080].

It would have been obvious to a person of ordinary skill in the art at the time of the invention was made to utilize the teachings of Downes in the device of Hart.

The motivation would be that the winners share the total stakes wagered on an event minus a fixed commission for the management of the pool. It has been obvious to combine Downes with Hart.

As regards claim 16, the rejection of claim 15 also applies to claim 16.

Claims 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Hart et al (PGPub No.US 2007/0087825A1)** in view of **Aronson (US Patent No. 6,695,701)**.

As regards claim 17,

Wager being placed in a pari- mutuel pool;

- **Hart discloses** players make wagers on a specific wager type wherein each wager type is associated with a pool. [Abstract]

Winning outcome receives an appropriate payout;

- **Hart discloses** pari-mutuel wagering allows a player holding a winning ticket to divide the total amount in pool in proportion to the player's wager. [0016, sentence 1]

Hart does not disclose specific time and odds. **Aronson disclosed** totalisators as computer systems that may be used to handle pari-mutuel wagers made at the racetracks, made at off track betting establishments. Totalisators generate wagering odds in real time. Totalisators generate these odds based on information on which wagers are being placed. [0047]

It would have been obvious to a person of ordinary skill in the art at the time of the invention was made to utilize the teachings of Aronson in the device of Hart to use the device in pari-mutuel wagering.

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The motivation would be to generate additional winnings during non-peak hours to encourage more participation.

As regards claim 18, Hart discloses a share of the first pool proportionate to the wagers made on the first wager type is distributed to each of the players in the first and second group winners, [0019].

Hart does not disclose if the pari-mutuel wagering pool contains sufficient funds.

Aronson discloses if the fixed-odds book wager is rejected, for example because the wager will upset the bookkeeper's book, then transaction processing and subscription management system 24 (FIG. 1) will be notified that the wager was rejected and the transaction processing and subscription management system may then submit the wager into the pari-mutuel pool, [0100].

It would have been obvious to a person of ordinary skill in the art at the time of the invention was made to utilize the teachings of Aronson in the device of Hart to submit the wager to the pari-mutuel pool.

The motivation would be to pay the participant the winnings that were guaranteed as part of the payout.

As regards claim 19, Hart as applied to claim 18, discloses the device of claim 18 and further discloses a share of the first pool proportionate to the wagers made on the first wager type is distributed to each of the players in the first and second group winners, [0019].

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Claims 20-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aronson US Patent No. 6,695,701 in view of Byrne US PG Pub No. 20030078090.

As regards Claim 20, a method of playing a pari-mutuel wagering game comprising; **Aronson discloses** a totalisator as the computer systems that may be used to handle pari-mutuel wagers made at the racetracks, [0047].

Aronson does not disclose setting an initial share price for each of the potential outcomes.

Several outcomes:

- **Byrne discloses** In its broadest sense, the invention includes in a gambling game where there may be a number of events selected ones of which can lead to a winning result [0009]

Initial share price:

- **Byrne discloses** all players who had selected that result type are paid a share of the available amount for that result type [0009]

Adjusted share prices for each outcome;

- **Byrne discloses** payment depends on the amount invested by the individual player and the total amount invested by players in the collateral game since there has last been a winning result, [0009].

An Appropriate payout to each game participant with the winning outcome:

- Upon receipt of a winning Super Keno ticket x/x Jackpot/Division) the Super Keno staff operator will pay the winning Super Keno player the required cash

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amount (or cheque) based on the number of shares purchased for the winning game, and the value of the winning share (as calculated) [0089].

It would have been obvious to a person of ordinary skill in the art at the time of the invention was made to utilize the teachings of Byrne in the device of Aronson to provide a collateral game where players may take a second entry when they are playing a game.

The motivation would be to encourage multi game multi ticket play at no extra overhead cost.

As regards claim 21, Aronson as applied to claim 20 discloses the payoff values are typically for pari-mutuel wagers because the payoff values are the same for everyone who placed a pari-mutuel wager, [0049].

Aronson does not disclose game participant purchasing one share in favor of at least one winning outcome.

Byrne discloses all players who had selected that result type are paid a share of the available amount for that result type which payment depends on the amount invested by the individual player and the total amount invested by players in the collateral game [0009].

It would have been obvious to a person of ordinary skill in the art at the time of the invention was made to utilize the teachings of Byrne in the device of Aronson whereby shares are paid based upon winning results and amount spent on winning ticket.

The motivation would be to equitable allocating winning pools and to encourage multi game, multi ticket play at no extra overhead cost.

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As regards claim 22, Aronson discloses the payoff values are typically for pari-mutuel wagers because the payoff values are the same for everyone who placed a pari-mutuel wager, [0049].

Aronson does not disclose total number of shares.

Byrnes discloses player Information Display, The total number of shares purchased for winning Super Keno Game [0062], and The total available winning Super Keno Jackpot/Division (Cash amount). (Total available winning Super Keno Jackpot=Total Jackpot minus (House Tax+Seeding))[0061].

It would have been obvious to a person of ordinary skill in the art at the time of the invention was made to utilize the teachings of Byrne in the device of Aronson where the total number of shares and the magnitude of the pool are viewed on player information display.

The motivation would be to provide players information for accurate payout.

As regards claim 23, Aronson discloses Payoff values may be provided for winning complex wager types such as exacta, trifecta, quinella, pick-n (where n is the number of races involved in the pick-n wager), and daily double. The payoff values are typically for pari-mutuel wagers because the payoff values are the same for everyone who placed a pari-mutuel wager [0049].

Aronson does not disclose determining a dividend value for each share purchased.

Byrne discloses the payout paid to collateral game players is calculated as a shake amount based on 1) the number of shares purchased by the player, [0194]. It is

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understood by the examiner that the payout based on the total number of shares purchased is equivalent to a dividend payment for winning shares.

It would have been obvious to a person of ordinary skill in the art at the time of the invention was made to utilize the teachings of Byrne in the device of Hart to make appropriate payouts based on a winning outcome and total shares purchased.

The motivation would be for accurate payout.

As regards claim 24, Aronson discloses the payoff values are typically for pari-mutuel wagers because the payoff values are the same for everyone who placed a pari-mutuel wager, [0049].

Aronson does not disclose distributing to each game participant that purchased at least one share in favor of the winning outcome.

Byrne discloses all players who had selected that result type are paid a share of the available amount for that result type which payment depends on the amount invested by the individual player and the total amount invested by players in the collateral game [0009].

It would have been obvious to a person of ordinary skill in the art at the time of the invention was made to utilize the teachings of Byrne in the device of Aronson whereby shares are paid based upon winning results and amount spent on winning ticket.

The motivation would be to add excitement and interest for the players and to increase revenue for the jackpot.

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Claims 25-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hart et al (PGPub No.US 2007/0087825A1) in view of Byrne US PG Pub No. 20030078090.

As regards claim 25 Hart discloses a share of the first pool proportionate to the wagers made on the first wager type is distributed to each of the players in the first and second group if the selected position of finish by the players in the first or second group is the same as the order of indicia, [0019].

Hart does not disclose purchase of shares and receiving appropriate payout.

Byrne discloses the payout paid to collateral game players is calculated as a shake amount based on 1) the number of shares purchased by the player, 2) the total number of winning shares for respective Jackpot/Division, 3) the total available appropriate Jackpot as entered [0194].

It would have been obvious to a person of ordinary skill in the art at the time of the invention was made to utilize the teachings of Byrne in the device of Hart to purchase shares for winning a jackpot.

The motivation would be to add excitement and interest for the players and to increase revenue for the jackpot.

As regards claim 26, Hart discloses a share of the first pool proportionate to the wagers made on the first wager type is distributed to each of the players in the first and second group winners, [0019].

Hart does not disclose a dividend for each share.

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Byrne discloses the payout paid to collateral game players is calculated as a shake amount based on 1) the number of shares purchased by the player, 2) the total number of winning shares for respective Jackpot/Division, 3) the total available appropriate Jackpot as entered [0194].

It would have been obvious to a person of ordinary skill in the art at the time of the invention was made to utilize the teachings of Byrne in the device of Hart to make appropriate payouts based on a winning outcome and total shares purchased.

The motivation would be to add excitement and interest for the players and to increase revenue for the jackpot.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John A. Anderson whose telephone number is 571-270-3327. The examiner can normally be reached on monday through friday 8:00 to 5:00 Pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, AKM ULLAH can be reached on 571-2722361. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

John A Anderson
Examiner
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AKM ULLAH
SUPERVISORY PATENT EXAMINER